S.B. CIVIL WRIT PETITION NO.2417/2005

Sadhu Ram Vs. State of Raj. & ors.

Date : 26.4.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. BS Sandhu, for the petitioner.

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Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 12.5.2004 by which the Superintending Engineer, Irrigation Circle, Vijaynagar ordered that the outlets no.1, 10, 11, 20 and 21 of Murabba No.315/442 are no more needed and the respondent is entitled to have irrigation facility from killas no.5, 6, 15, 16 and 25 and that finding has been recorded by the appellate authority on the basis of water course of the channel as recorded in the jamabandi.

Learned counsel for the petitioner submitted that the outlets which have been sought to be used now were not used since last more than three years, therefore, no irrigation facility can be provided from those abandoned outlets.

According to the learned counsel for petitioner, even the outlets which have been referred in the impugned order dated 12.5.2004 are not shown in the map of the irrigation department itself and, therefore, the irrigation facilities

committed serious error of fact and law in relying upon the revenue record instead of relying upon their own record.

I have considered the submissions of learned counsel for the petitioner and perused the reasons given in the impugned order dated 12.5.2004.

First of all, the outlets in question i.e. Nos. 5, 6, 15, 16 and 25 were not in use, was never the defence of the petitioner before the lower authorities. It is also apparent from the impugned order that the petitioner never raised this objection that the outlets are not available at outlets no.5, 6, 15, 16 and 25 as per the record of the irrigation department itself. It appears that the petitioner wants to raise all these grounds in the writ petition that cannot be permitted since the order has been passed on the basis of the documents, therefore, this Court finds no illegality in the impugned order.

In view of the above discussion, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya